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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-seventh session

SUMMARY RECORD OF THE NINTH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 7 August 1995, at 10 a.m.

Chairman: Mr. Maxim

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The meeting was called to order at 10.10 a.m.

ELIMINATION OF RACIAL DISCRIMINATION:

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION

(b) MONITORING THE TRANSITION TO DEMOCRACY IN SOUTH AFRICA

(agenda item 5) (continued) (E/CN.4/Sub.2/1995/7, 37, 78 and Add.1; E/CN.4/1995/24 and 77; A/49/677)

1. Mr. BYEKIROV (Society for Threatened Peoples) drew attention to the relationship between the problem of population transfer and racial or ethnic discrimination. Although the former was not, unfortunately, the subject of any special investigation at the present session, some very interesting studies on the question had been made by Mr. Al-Kasawneh, a former member of the Sub-Commission and by Mr. Hatano, a current member. Migrations and population transfers were not always connected with racial discrimination, but they were often used by a few Governments as very effective forms of oppression and even as a latent form of genocide.

2. In practice, such measures took the form of ethnic cleansing, as was occurring at present in places like Rwanda, the Balkans and some parts of Oceania. The violation of human rights in cases of forced population transfer involved not only the right to choose a place of residence, but also the very existence of a particular ethnic or racial group. Forced population transfers led to violations of the rights to life, to preserve one's own language and culture, to private property and to land. The usual victims were national minorities or indigenous peoples. At least three areas of concern to the Sub-Commission were affected: (i) the suffering of racial and ethnic minorities and the elimination or denial of their human rights by the ethnic majority or Government; (ii) the resettlement of new population groups of a different ethnic origin on the native lands of a deported people; and (iii) the need for the restoration of rights, the restitution of confiscated property and compensation for the destruction of a cultural and religious heritage and other damages resulting from deportation.

3. The practice of using involuntary population transfers as a form of racial discrimination had been frequently resorted to in the former Soviet Union in the 1930s to the 1950s. The horrors of the deportation process itself could be said to be a thing of the past, but the consequences of the deportations were still being felt. In some cases they were being overcome through the efforts of the Governments of newly independent States such as Moldova and the Baltic countries. Other cases, such as those of the Greeks and Germans in Russia, were only partly solved. Sometimes a Government had completely failed even to start the process of repatriation of deported peoples, as in the case of the Meshket Turks in Georgia. In other instances the central Government did not put up obstacles to the voluntary repatriation of deported ethnic groups but it did not take the necessary measures to protect the returnees from racial discrimination suffered at the hands of the local authorities, which were established and controlled by a different ethnic group living on the historic territory of the deported indigenous group. That

was the situation of the Crimean Tatars in the Ukraine, who had been deported to central Asia in 1944 and were now returning to their native land, where 1.5 million Russians had settled in the meantime. The situation involved rights such as the right to return and resettle in a native homeland, citizenship, political participation and representation, and the right to restitution of property and land. Conscious or unconscious neglect in dealing with the problems arising out of population transfers, often motivated by ethnic considerations, could be considered a form of racial discrimination over time, and the Society for Threatened People requested that such situations should be investigated by the Sub-Commission as soon as possible in order to prevent the outbreak of conflicts.

4. Mr. FARHI (International Council for Jewish Women) said that the first two Decades to Combat Racism and Racial Discrimination had produced no tangible result and that it was therefore necessary to study the reasons for that failure and to identify the errors generally committed by most official or unofficial bodies currently engaged in the combat against racism.

5. In Pierre-André Taguieff's view, anti-racism had been too long left to both the agitators and the conformists who had used it for political purposes and had made it a stock-in-trade. Several anti-racist movements, whose members were still upset by the discredit into which Marxism had fallen, had continued to provide a functional explanation of modern racism by viewing it as a means of world economic exploitation. In other words, in a situation of economic crisis, competition with foreign workers engendered a special hostility accompanied by collective "racist" "phobias" of exclusion and rejection towards certain groups in particular. However, that essential theory of contemporary left-wing anti-racism did not account for the origins of racism any more than it explained the genocide against the Jews and the gypsies. The utilitarian theses of the old Marxist left, based on the exploitation of the weakest, were not compatible with the extermination of a people or the process of "ethnic cleansing". Neither was it by taking up in general the "campaign against exclusion" that convincing results would be obtained, since that was only a trap based on generous instincts. Who were the excluded? In no way did they form a class and they could therefore not be mobilized. On the other hand, they were good material for all kinds of demagogues. Moreover, the imprecations of the professional anti-racists could not follow a political line or project. Any demanding anti-racism must tackle racism as a set of phenomena to be explained. It must deconstruct racism, reduce it to its component factors in order to be able to act on them. According to Taguieff, it would be necessary to "despecify" the phenomenon, to redefine anti-racism as a struggle against all discriminations, which should not be confused with socially necessary and legitimate differentiations and distinctions, and to recategorize it as a programme for the progressive elimination of segregation. It was therefore necessary to return to the concrete, since any critical thought, especially if it was to be global, had its limits. There were also those who wanted to push anti-racism along the lines of the hunt for the "politically incorrect", but it was violations of fundamental rights that had to be combated, not the use of one word rather than another with the danger of drifting into an intellectual terrorism already committed to the distortion of language and therefore to the falsification of all original thought. Racism was not, in fact, a clear concept, especially when it was used to serve political ends. Furthermore,

although it had been scientifically demonstrated that races as such had not existed, it had to be admitted that racism itself was very much alive and was not about to disappear. Likewise, "avowed" anti-racists often forgot to distinguish, between the various degrees of intensity which racism, just like an illness, could exhibit. It was not true that all racist comments could lead to Auschwitz.

6. As long as racism remained sporadic and unorganized, it remained a banal fact of life in society. It became serious when it assumed a political form and created a new impetus that could lead it to supreme power, as in the case of Nazism and apartheid. In the light of that analysis, it was easy to understand what a great mistake it had been to accept the National Front as a legitimate and respectable political party in France. Now, for the first time since 1945, an extreme right-wing and racist party was spreading roots in the political landscape of France as a result of its victories in the municipal elections of May 1995. At least the Republican Party in Germany had been declared by the Federal Office for the Protection of the Constitution to be an extreme right-wing party and placed under surveillance.

7. It would also be necessary to combat the tendency in some countries to regroup communities in situations that might favour the spread of pre-existent fundamentalisms and the emergence of authoritarian leaders anxious to create a state within the State. Consequently, minorities should be encouraged to integrate in the broad sense of the term, on the basis of respect for human rights, while mistrusting the perversions of a cultural relativism which if taken to its ultimate consequences, would soon be condemned to silence. A society needed a certain amount of cohesion in order to exist, and to juxtapose groups with different cultures in ghettos would be tantamount to encouraging tribalism.

8. All citizens and residents of a State should be given a common living space in which the younger generations would be able to create together a culture which, with time, would develop its own originality. In Europe, that could take the form of a mini-civilization, if culture was taken to denote what was specific to a society and civilization as concerning what could be acquired and transmitted from one society to another. The same could apply to other regions.

9. Finally, the question of the perverse use which racists made of democratic values should continue to exercise people's minds. Democracies seemed to have arrived at an impasse characterized by contradictions that were difficult to resolve. The International Council of Jewish Women unreservedly supported the Special Rapporteur's idea of holding a multidisciplinary seminar, which would be more conducive to in-depth reflection than a world conference.

10. Mr. OZDEN (Centre Europe-Tiers Monde) said that, at a time when South Africa was endeavouring to emerge from its institutionally racist past, the question arose as to whether the term "apartheid" should continue to be used only in respect of that country, since it was unfortunately all too clear that the term "apartheid" was appropriate as an exact description of what was happening in the United States of America. It could also be applied to the situation faced by immigrant and refugee communities in Europe. In fact, if

the term "apartheid" meant that each racial group should develop separately and in parallel in geographical areas set aside for each group, then its most perfect illustration was to be found in the development of North American urban structures. The origins of the phenomenon were not recent and were confused in history, but it was now clear that the achievements of the civil rights campaigns were being cancelled out by the economic and financial logic of an unrestrained liberalism. There were legitimate grounds for thinking that apartheid was tending to become a semi-official system for the management of social risks, as if it were the least bad solution for the problems of a society that was capitulating to fear and racism.

11. It was, unfortunately, extremely easy to support that diagnosis, since there were a large number of studies on the matter and anyone seeking information would easily find it. However, it was also, unfortunately, quite easy to forecast the development of a geographical segregation, especially between black and white populations.

12. An effort was being made to excuse what was now happening in large United States cities by idiotic and ignoble biological explanations that needed to be publicly denounced. If it was undeniably true that massive delinquency was the explanation for certain forms of behaviour, it must be pointed out that such delinquency was mostly caused by poverty and, in particular, by segregation. Every time that a policy known to be iniquitous was introduced, attempts were made to justify it by transforming effects into causes. It was to be feared that the residential apartheid that was objectively visible in the United States would produce its own justificatory ideology. Apartheid denoted no longer merely a dangerous tendency but rather a deliberate reality.

13. In such circumstances the question arose as to whether the United States of America would find the political and moral will and strength to cope with the social degradation affecting its cities, since in principle United States law, especially the Constitution, did not allow such objective negations of human rights. But would law be stronger than economic logic? There were grounds for hope, but there were also, unfortunately, grounds for doubt. At a general level many social programmes were being called into question, thereby contributing a little more to racial segregation. But there was also a danger that town planning decisions and the provision of housing would be left to the good will of private individuals - in other words to segregationist logic - as had already happened, for example, in Chicago.

14. The Sub-Commission should express its concern regarding a development which gave apartheid an undeniable scientific relevance as a description of many urban situations in the United States. It should endeavour to ensure that it would no longer be possible to use the term to denote any social trend or any political or juridical reality. More particularly, it should express concern that in what was economically and politically the most powerful country in the world and one anxious to promote liberty, situations were developing in which human relations were ruled by necessity and force. It would be a catastrophe if apartheid were to find a new future in the United States of America.

15. Mr. WAREHAM (International Association against Torture (IAAT)) drew attention to the fact that at the moment Mumia Abu-Jamal, an internationally renowned black journalist and former member of the Black Panther Party, was facing execution in 10 days' time in the United States of America. His situation and that of 40 million Africans in the United States, which was examined in the reports of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/49/677, E/CN.4/1995/78 and Add.1), exemplified the problems which the Sub-Commission must resolve if it was to deal with agenda item 5 seriously.

16. As de jure apartheid had come to an end, IAAT had continually expressed concern at the tendency of the United Nations to equate the death of apartheid with the extinction of racism itself. While the Sub-Commission was less susceptible to that tendency than other United Nations bodies, it too must be aware of the pitfall. Racism was still a major unresolved human rights problem.

17. Moreover, even though many would like to believe that the transition to democracy in South Africa had been a relatively smooth one, the facts showed otherwise. The elimination of de jure apartheid did not automatically or immediately abolish the racial inequities that had been built up over the years in the economic, social, cultural, political and civil spheres of South African society. Even without a legal sanction, racism, with its ideological roots planted firmly in the capitalist economic base, was like the hydra: cut off one head and another emerged.

18. In 1995 racism was flourishing in all its forms. If the Third Decade to Combat Racism and Racial Discrimination was to achieve what its two predecessors had been unable to achieve, resources and creativity would be required. A distinguishing feature of the Third Decade had been the appointment of a Special Rapporteur with a worldwide mandate. The appointment of Mr. Glélé-Ahanhanzo had stemmed directly from the Sub-Commission's initiative and had represented a significant advance on what had occurred during the first two Decades. An examination of the Special Rapporteur's initial findings might be instructive in indicating the way forward for the remainder of the Decade.

19. To his credit, the Special Rapporteur had taken up the challenge of investigating racism in its citadel, the United States of America. In October 1994, he had visited four cities over a 13-day period. Despite the brevity of his stay, his report (E/CN.4/1995/78/Add.1) presented a largely accurate assessment of the racial situation in the United States, although its scope suffered from the objective limitations caused by the lack of sufficient resources. IAAT, as the non-governmental organization (NGO) which had called for the investigation to be made, had done whatever it could to help the Special Rapporteur. Most of the Special Rapporteur's contacts had been with governmental and non-governmental representatives, and the only opportunity he had had for contact with grass-roots victims of racism had been a day-long hearing organized by IAAT at the historic Abyssinia Baptist Church in Harlem. His report, while only scratching the surface, was still a damning indictment of the situation in the United States, clearly demonstrating that the preliminary investigation which he was conducting might provide the basis for the appointment of a country-specific rapporteur. His recommendations to the

United States Government were based on the belief that racism and racial discrimination persisted in American society, even if not as a result of a deliberate policy on the part of the United States Government. Although IAAT considered that the Special Rapporteur's belief in the non-deliberateness of United States Government policy was sincere but misguided, it knew that events would reveal the truth. Since the November 1994 elections, the situation had markedly worsened. Further steps to institutionalize racism had been taken in the form of an increase in the number of death sentences, which involved a disproportionate number of blacks, including Mr. Mumia Abu-Jamal, assaults on affirmative action programmes and the Voting Rights Act, the continued killing of unarmed black and Latino youths with impunity, and discrimination against black Federal employees in dismissals. Those events, in conjunction with the Special Rapporteur's conclusions, pointed to the need to appoint a special rapporteur to investigate the situation in the United States, since only such a comprehensive investigation would demonstrate the United Nations resolve to attack the issue of racism and indicate that all countries would be held accountable to a single standard for human rights violations.

20. In previous interventions, IAAT had pointed to the need to view the situation of blacks in the United States as that of an internal colony of a modern industrial State. It had cited the precedents and similarities between the situation of blacks in the United States and in South Africa and the political, economic, social, cultural and psychological manifestations of colonialism. A special rapporteur for the United States would be able to identify more precisely the basis of the human rights violations to which blacks were subjected and thus help to devise the most appropriate solution.

21. Means must be found to implement the Special Rapporteur's findings. Some methods of compensation must be developed to indemnify those who had suffered because of racism, including some 40 million Africans in the United States and the many millions of Africans whose sufferings had made possible the technological progress, opulence and arrogance of contemporary Europe. IAAT endorsed the proposal that the debt owed by African countries should be condoned as one means of redress. For Africans in the United States there had to be an agreement to provide some form of material recompense. The difficulty of computing any amount was simply an obstacle. First there must be commitment to the goal. While there were many possibilities, such as tax exemptions for or payments to individuals, IAAT favoured a collective payment to the oppressed black nation within the borders of the United States, whose citizens would determine how it was to be used.

22. In conclusion, IATT proposed that, in order to achieve a meaningful implementation of the Third Decade to Combat Racism and Racial Discrimination, the Sub-Commission should send an urgent statement to the Governor of the State of Pennsylvania expressing its concern regarding the situation of Mumia Abu-Jamal and requesting a stay of execution and a new trial; that a special rapporteur should be appointed to investigate the human rights situation with regard to racism and racial discrimination in the United States; that a concrete plan for the material compensation of Africans worldwide who were the victims of racism or descendants of the victims of racism should be drawn up; and that a world conference on racism and racial discrimination should be held in 1997.

23. Mr. NEWMAN (Human Rights Advocates) said that, although much progress had been made in recent decades, racial discrimination had by no means been eliminated, primarily because too many Governments, either by intent or by neglect, continued to flout their obligations under the Charter of the United Nations and the many pertinent United Nations conventions. Further progress would be jeopardized if insufficient attention was paid to "affirmative action". Commenting on the United States of America, the Special Rapporteur had indicated that affirmative action programmes should be revitalized in order to offset the negative consequences of the policies pursued during the 1980s in the fields of health, housing, education and employment. International news reports in 1995 confirmed that in the months following the Special Rapporteur's visit, affirmative action programmes in the United States had not been revitalized and that, on the contrary, threats of further cut-backs and even of the abolition of all affirmative action had drastically increased in intensity, and also in alleged support.

24. When the Special Rapporteur had visited the United States, that country had been a party to the International Convention on the Elimination of All Forms of Racial Discrimination for less than three months. However, the Convention's affirmative action provisions, contained in articles 1, paragraph 4, and 2 paragraph 2, had been tested and kept unchanged for nearly a quarter of a century. It would perhaps be advisable for the Sub-Commission, at its current session, to endorse the Special Rapporteur's recommendation by reaffirming that, in many countries, without affirmative action, it seemed unlikely that racial discrimination would be eliminated.

25. Ms. FUERTA de FURTEZ (International Federation of University Women) said that she would like to emphasize a number of points made in the excellent report by Mrs. Attah on her mission to South Africa (E/CN.4/1995/24). One fundamental point which had emerged from the report was that equality between the sexes was a guarantee of democracy.

26. Paragraph 14 of the report had stressed that a five-year economic development plan was at the heart of the Government of National Unity's programme to reorganize and democratize post-apartheid South Africa. It represented a vision for the fundamental transformation of South Africa from the ashes of apartheid into a democratic, non-racial and non-sexist society.

27. In paragraph 75, Mrs. Attah had pointed out that section 119 of the Interim Constitution provided for the establishment of a commission on gender equality and that as a consequence all Ministries and extra-ministerial departments would have a gender coordinating unit which would cater for women's issues as they related to such departments.

28. Paragraph 76 reported that a gender equality unit had been created in the Ministry of Lands and would contribute to the review of land policies in such a way that certain tribal land ownership systems which excluded the majority of rural women from owning land would be amended to take into consideration women's land rights. In paragraph 76 it was also reported that the Ministry of Education had established a gender equality task team which would advise on the creation of a permanent gender equity unit to study and advise on all aspects of gender equality and the education system.

29. In paragraph 77, the mission had taken note both of the passing of the Family Abuse Edict and of the initiative to redress the tax and married allowance disadvantages suffered by married women under successive apartheid Governments. It had also drawn attention to the difficulties in the way of the economic empowerment of women from disadvantaged communities which would require many years of effort. In that connection the mission had noted the important activities carried out by non-governmental organizations whose contributions had been critical in generating a new sense of gender equality in South Africa. It was also expected that increasing collaboration between such NGOs and women parliamentarians on women's concerns and women's empowerment would foster the quicker achievement of gender equality in the new South Africa.

30. The desire and struggle for equality was one more guarantee of success of the transition taking place in South Africa. She was grateful to Mrs. Attah for the manner in which she had highlighted the need for such equality and for the way in which she had complied with the terms of Sub-Commission resolution 1994/43 in respect of the integration of the human rights of women in all the Sub-Commission's activities.

31. Mr. CANTOREL (Observer for Turkey) said that although the biological racism of the previous century had faded, racism was now presenting itself under a different cloak, that of cultural relativism.

32. It was undeniable that racism, in its many forms, manifested itself in those countries which had attained a comparatively high degree of affluence. It was interesting that racism, which divided and categorized humankind, was present in countries which called on other, less-developed countries, to reach higher human rights standards.

33. The Sub-Commission had taken the first substantial steps towards the eradication of racism when it had adopted its resolution 1992/5 which had represented a turning point. The Sub-Commission had also been instrumental in putting the issue of racism and racial discrimination into perspective in its resolution 1993/3 when the particularly difficult situation of migrant workers had been stressed. Those developments had paved the way for the appointment of a thematic Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The reports of the Special Rapporteur had once again demonstrated the gravity of the threat posed by the scourge of racism to the stability of pluralist and tolerant societies. Members would look forward to the Special Rapporteur's suggestions for concrete measures to be taken against racism at all levels. In that connection mention must be made of the key concept of tolerance; people must be able to accept one another without making value judgement and must accordingly accept, absorb and respect those who were different. He reminded members that Turkey had originally proposed the idea of proclaiming the year 1995 as the United Nations Year of Tolerance.

34. In its resolution 1994/2, the Sub-Commission had proposed the convening of a world conference against racism, racial and ethnic discrimination, xenophobia and other related forms of contemporary intolerance. Turkey fully

supported such a conference. His Government warmly welcomed the very positive attitude of the United Nations High Commissioner for Human Rights who had also stated that he would personally support such a world conference.

35. Despite affirmations that numerous measures were being taken against racism and xenophobia, the information which was reaching his Government indicated that the Turkish migrant workers concentrated mainly in western Europe continued to be victims of racist and xenophobic harassment and attacks. He was confident that the Sub-Commission would closely watch all developments pertaining to that scourge and, as in the past, formulate the best possible ideas for its eradication.

36. Mr. KHALIFA said that the final report of Mrs. Attah (E/CN.4/1995/24) could be considered a landmark as it would be the Sub-Commission's last message to the great country of South Africa. From now on the Sub-Commission would not be meddling any further in the country's internal affairs. South Africa should now be left to mind its own business and carry out the formidable task that lay ahead in the vital transition period until the drafting of the permanent constitution.

37. Mrs. Attah was to be congratulated on being alert to the fact that the next five years were crucial. During the period the vestiges of apartheid should totally disappear and a blueprint for a non-racial and democratic modern State should be hammered out. Mrs. Attah had therefore quite rightly emphasized the socio-economic aspects and the reconstruction and development plans being implemented.

38. If he could come up with a concise formula for hope, success and prosperity, it would be: land, law and communal peace. On those three tenets rested the future of South Africa. Without them all there would be no economy and no democracy.

39. It was an established fact that the 1913 Land Act had been the cornerstone of the apartheid system. All the injustices of apartheid stemmed from the concept of the Land Act which had pushed the blacks around and confined them to the periphery of South African society. The new Government had enacted laws aiming at the redress of past and present injustices including forced removals without compensation. Up to the end of the apartheid era, whites possessed about 90 per cent of all arable land. The situation was still critical. Land ownership was therefore an overriding issue and deserved priority concern by the Government and determination in the face of the understandable resistance on the part of the white farmers.

40. Second, law was society. In South Africa, law was snow white. It was therefore imperative that a different attitude towards law should be developed. Instead of viewing law as the State's tool of oppression, the people of South Africa should come around to realize that law was an objective and independent force that balanced contrasting interests and occasionally even stood up to the will of the Government itself. That was not an easy task.

41. With an authentic solution of the land mega-problem and with a new attitude towards law and with the perpetuation of communal peace, only then

could there be hope for a sound economy and real democracy. Democracy was of course pivotal but it was not a supermarket item; it was a long process which in fact was never totally accessible. Any democracy however was worthless amidst chaos, instability and anarchy.

42. The current Government of South Africa should be credited with the establishment of a fairly stable communal peace, a fairly growing economy, a concerted programme of racial-rapprochement and, in general, a gradual phasing out of the apartheid heritage.

43. Domestic economic indicators were favourable, foreign investment was beginning to trickle in with the lifting of international sanctions, inflation was lower than 10 per cent for the first time in a decade, the gold price was up and stocks were hitting record highs. The most sensitive issue in South Africa however was political stability, which was almost certainly tied to a speedy further distribution of income. It was well known that apartheid was the ideological mask hiding the reality of economic exploitation and inequality. South Africa was currently faced with the sensitive work of building a new economic structure that would be fair to both the governing majority and the new minority.

44. Some argued that the Government should take a more Africanist line, promoting blacks aggressively to positions of power and worrying less about the anxieties of affluent whites for whom the new regime had worked better than expected.

45. The conglomerates that controlled more than half the nation's economy should start pushing more money down to the wage-earning masses and foreign aid should primarily seek black empowerment. United States policy seemed to go in that direction. In 1992, 25 per cent of United States aid to South Africa had gone to black-led groups; by 1994, that figure had risen to 51 per cent while the population distribution was 76 per cent black and 14 per cent white.

46. Affirmative action programmes should be legislated to promote black economic empowerment and enjoyment of social services. A social face-lift was badly and urgently required. There were backlogs in housing, education and health as the Special Rapporteur had pointed out.

47. The Sub-Commission should not however deceive itself. The great leap forward to the new regime had only brought South Africa to the level of zero. Apartheid had been below zero. From zero South Africa should move forward. It was wonderful that South Africa had a black President and numerical majority, but intolerance and discrimination were still there, below the surface. The scars of apartheid and prejudice were gaping. Healing those scars would take time as it had in the case of the United States; soul cleansing took much more time and effort than rescinding legal precepts. The least the Sub-Commission could do would be to wish good luck to South Africa.

48. Mr. LINDGREN-ALVES said that only the staunchest sceptic would deny the important role played by the United Nations in the struggle against the apartheid regime and he wished to put on record his appreciation of the

Sub-Commission's work in that area. Mr. Khalifa's reports had always been a potent instrument in that struggle and it was fortunate that Mrs. Attah had been called upon to monitor South Africa's transition to democracy.

49. Together with the fight for decolonization and against apartheid, a new international consciousness on the evils of racism and racial discrimination should be included in the list of assets of the United Nations. Those phenomena remained very serious in all continents and had acquired new dimensions in recent years. Had it not been for the United Nations however, acts of racism and ethnic violence would, as in the past, be treated as domestic incidents, within the sole jurisdiction of national law, perhaps justified by absurd scientific explanations based on ideas of the superiority and inferiority of human beings.

50. One of the most important decisions taken by the Commission on Human Rights had been the appointment of a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Mr. Glélé-Ahanhanzo's reports had provided the international community with a neutral source of information on the contemporary aspects of a phenomenon which underlay a large number of violations of human rights, violations which, without a comprehensive approach, would be considered in isolation, detached from their root causes. His first report (A/49/677) had been essentially theoretical and programmatic, providing new information on the unacceptable limitation of resources that hindered the work of the Centre for Human Rights. In his first and third reports (A/49/677 and E/CN.4/1995/78/Add.1), the Special Rapporteur had proposed the convening of seminars and workshops to discuss his mandate. In the light of the resource constraints faced by the Centre for Human Rights, he himself believed that theoretical activities should not be a priority, least of all within the mandate of a thematic rapporteur. Racism in old and modern forms, had already been widely studied in other forums and universities.

51. The Special Rapporteur's report on his mission to the United States had brought to light very important information on the concrete case of a country whose experience in the fight against racism, having set the example for initiatives elsewhere, showed both the success and limitations of governmental action. The Special Rapporteur had already visited Brazil, and intended to visit some European countries in 1995. The Sub-Commission could therefore expect that next year it would have before it a much wider picture of the phenomenon of racism and xenophobia in the contemporary world and the way in which it was being counteracted by different Governments and societies.

52. In his third report, the Special Rapporteur had treated acts of racism and xenophobia on the same level as those of other serious forms of violations of human rights, like torture, disappearances and summary executions. Cases of racism might themselves involve physical aggression, torture and summary executions. They differed however from other violations because of their motivation. In contrast to what led to common crimes and to what happened in genocide, racism aimed at human beings simply for being what they were, namely, different. The cases depicted clearly confirmed the urgent need, already expressed by the Sub-Commission in 1994, for a world conference on the topic.

53. Each of the social conferences convened by the United Nations in order to prepare the world for the advent of the new millennium, from the Rio Conference on Environment and Development in 1992 to the forthcoming 1996 Conference on Human Settlements, in Istanbul, put the human being at the centre of its respective concerns. It was an important new development that had not been observed in previous conferences.

54. If human beings did not acknowledge other human beings as their equal and societies did not take adequate measures to face up to the phenomena of racism, xenophobia and related intolerance, all promises and commitments of different programmes of action adopted by the social conferences of the United Nations would stand for nothing. He therefore hoped that the General Assembly would support the Sub-Commission's proposal for a world conference on contemporary forms of racism in order to complete the current cycle.

55. Mr. GUISSÉ said that the legislation, administrative practices and legal procedures of certain countries had reduced the field of application of international norms by emptying them of meaning for at least two categories of persons, namely, migrant workers and those seeking exile. The first category of individuals were confronted by many difficulties, including finding stable employment and obtaining equality of treatment for equal work. They were paid the lowest wages and were the first to be dismissed in times of economic recession. It was to be regretted that the victims of such treatment, often inhumane and illegal, were usually black workers. They were subjected to interrogation, harassment, torture and even rape by the frontier police, then robbed of their possessions and returned to their own countries in a state of destitution.

56. A similar situation existed in the case of asylum seekers. In some countries a request for asylum was regarded as an offence and the requester was immediately arrested and interrogated by the police in similar manner to the harassment of migrant workers. Recourse was refused on the grounds that their situation was not covered by national law and consequently no remedy was available.

57. Such an approach by the authorities was based on a faulty interpretation supported by intellectual dishonesty. In fact, relevant international instruments unambiguously stipulated the principles of State responsibility. Signatories of such instruments could not ignore their content. Such provisions included article 2 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination to the effect that each State party undertook to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, should act in conformity with that obligation. Article 6 provided that State parties should assure to everyone within their jurisdiction effective protection and remedies. It could not be denied that frontier police officers and personnel were under the jurisdiction of the State concerned.

58. The provisions of the European Convention on the Legal Status of Migrant Workers, which entered into force on 1 May 1983, should also be borne in mind. That Convention had been intended to extend the protection given to migrant

workers under the European Social Charter and was based on the principle of equality of treatment between migrants and citizens of the receiving country. Coverage had been further expanded under the European Convention for the Prevention of Torture and Inhuman or Degrading Punishment or Treatment of 1 February 1989. The Council of Europe frequently appealed to the notion of the state of law in order to emphasize the supremacy of the law. That situation did not however seem to apply in many States, particularly those receiving requests for asylum or migrant workers. He appealed to those States to respect the undertakings they had made to the international community.

59. Situations in which the law discriminated between citizen and foreigner, rich and poor, black and white must be prevented. The consequences of xenophobia, the rise of the extreme right and the accompanying violence were matters of grave concern.

60. He welcomed the creation of the European Commission against Racism and Intolerance by the Heads of State of the Council of Europe for the purpose of enhancing guarantees against all forms of discrimination. That initiative should be followed in other regions of the world.

61. Mrs. CHAVEZ, referring to the report by the Commission's Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on his mission to the United States of America from 9 to 22 October 1994 (E/CN.4/1995/78/Add.1), said it was unfortunate that he had made no attempt to meet her beforehand - and that the Centre for Human Rights had not suggested such a meeting - in view of her more than 25 years of expertise in civil rights policy and enforcement in her country, as current head of the Centre for Equal Opportunity and past head of the United States Commission on Civil Rights. More serious, however, had been his snub to the major civil rights organizations in the United States: he had failed to meet with any of the mainstream groups in the black community such as the National Association for the Advancement of Colored People (NAACP), the NAACP Legal Defense and Education Fund, the Congress on Racial Equality (CORE) or the Joint Center for Political Studies. Consequently, perhaps, the report showed a shocking level of misinformation, factual errors and politicized comments.

62. For instance, paragraph 24 stated that the Declaration of Independence and the United States Constitution condoned racial subordination and discrimination, and that the framers had seen no contradiction in denying liberty to all but white males with property. In actual fact, there had been many debates on slavery prior to the issuance of the Declaration of Independence and Thomas Jefferson's original draft - available for perusal in the United States - had contained an explicit condemnation of slavery. The three fifths compromise incorporated into the Constitution (para. 25 of the report) had actually been endorsed by abolitionist groups and other progressives at the time as a way of minimizing the political power of the slave-holding States, in view of the fact that representation in Congress was proportionate to population. It should be noted that in the entire section on the period leading up to the Civil War, the report made no mention of the important abolitionist movement in the United States, of the underground railroad or of the efforts of many to free the slaves, which eventually won the day.

63. Even in the passing reference (para. 32 of the report) to the O.J. Simpson trial which the Special Rapporteur had cited as an instance of racism, there was a minor but significant error: the second murder victim was not the defendant's ex-wife's lover.

64. The Special Rapporteur declared that the fate of the majority of blacks was one of poverty, sickness, illiteracy, drugs and crime (para. 35 of the report). Certainly the 32-per-cent poverty rate among African Americans was shockingly high, but it could not be qualified as affecting the "majority". The median income of black families in which both husband and wife were present was actually 85 per cent of that of similar white families. The impoverishment of the black community was due to the fact that 75 per cent of black families were headed by single mothers. The role of the United States welfare policy in fostering such a decline of the black family and the consequent impoverishment of millions of African Americans was a valid subject of inquiry, and would have made an interesting notation by the Special Rapporteur had he chosen to include it.

65. In the discussion of high mortality rates among blacks, as well, he had failed to say that the very high mortality rate and low life span of American blacks was caused in large part by the scandalously high rate of homicides in the black community. Homicide was the main cause of death of young black males, and 40 per cent of all homicides in the United States (approximately 25,000 in all) involved black victims. Significantly, however, 94 per cent of their murderers were also black, which meant that only 6 per cent had been killed by any other of the ethnic groups in the country, which comprised 88 per cent of the population.

66. Infant mortality rates were also, indeed, very poor and required attention. Certainly one of the causes was poor nutrition, despite Government programmes providing nutrition to poor mothers and children; but far and away the main cause was drug use by pregnant women. The situation of poor people of Mexican origin was in marked contrast, it should be noted: among them, mortality rates were much lower because of the lower incidence of drug addiction and better nutritional standards.

67. In the discussion of inadequate health care in the African American community (para. 39 of the report), glaucoma had been listed as a communicable disease, whereas it was a degenerative disease that could not be ascribed to social causes.

68. The report noted (para. 45) that since many people from ethnic minorities could not afford to enter private schools and universities, the majority ended up in establishments that were inadequately subsidized by public funds. It should be pointed out that the expenditure per pupil for public education in the United States was one of the highest in the world - $5,000 per pupil, even in inner-city schools, and indeed over $5,000 in major black inner cities like Washington D.C. and Detroit. Funding was therefore only one of many factors in the problems of public education.

69. Regarding the harassment of black elected officials (para. 58 of the report), it was a pity that the Special Rapporteur had not met with the Joint Centre for Political Studies, where he could have learned a great deal about

the election of blacks to office at the city, country, state and federal levels and would have gained a not uncritical but none the less much more accurate view than the one presented in the report.

70. Regarding the composition of juries, the statement that ethnic minorities were inadequately represented (para. 59) was totally inaccurate for the United States of the 1990s, and more appropriate to the 1930s. Blacks did serve on juries and were often a majority on juries. All black juries, in fact, were now a common phenomenon in United States cities.

71. The Special Rapporteur had cited record numbers of racist murders of blacks (para. 70), and it was true that violent deaths among blacks had reached alarming epidemic proportions. They were not, however, a fact of racism: the overwhelming majority had died as a result of black-on-black violence. Tragically, black men were seven or eight times more likely than whites to be murdered, virtually always at the hands of other black men; a phenomenon that was deeply disturbing to African-American organizations. On the other hand, there was a glaring omission in the report of any reference to the most notorious multiple-murder trial in America in the past year, that of Colin Ferguson, a case of racism in the extreme, in which a black man had been convicted of systematically shooting all whites in a railroad car. Perhaps no mention had been made because of the role played by William Kunstler of the Centre for Constitutional Rights both as one of the attorneys initially representing the defendant and as a major source for the Special Rapporteur's report.

72. There were areas where the Special Rapporteur had done a good job - in the sections on immigrants or on anti-Semitism, for instance, the comments were balanced and useful. It should be noted, however, that his sources in these cases had been mainstream groups like the Mexican-American Legal Defence and Education Fund, or the Anti-Defamation League.

73. There was a terrible danger in politicized reports like that of the Special Rapporteur, for they undermined the Sub-Commission's work and made its reports easier to dismiss. The Special Rapporteur could have produced a serious and critical report, if instead of consulting radical fringe groups in the black community or organizations that were relics of the cold war, he had met with responsible mainstream representatives who were often in fact highly critical of conditions in the country but whose judgements would be dependable and objective.

74. Mr. EIDE said that he had found the report by the Special Rapporteur on his United States mission (E/CN.4/1995/78/Add.1) to be a very useful document.

75. While it was true that most homicides of blacks were the result of black-on-black violence - a phenomenon familiar also in South Africa - it must be recognized that the problem had its origins in the structural conditions from which it had emerged. Also, with regard to the Declaration of Independence, it had to be acknowledged that some of the framers were, paradoxically, slave owners who nevertheless believed in the self-evident equality of all men. On the other hand, it was also true that there had been

courageous people in the United States over the centuries who had fought discrimination and contributed to a considerable improvement in the situation.

76. Referring to agenda item 5 (b), he observed that the separate book on apartheid had now been closed, in a remarkably peaceful transition. He congratulated Mrs. Attah on her excellent report on the subject (E/CN.4/1995/24), and Mr. Khalifa and the entire Sub-Commission for their work in bringing apartheid to an end. The land problem, of course, remained and would take a long time to overcome. From now on, however, South Africa was no longer a special case but one among the many where group accommodation and the elimination of racial discrimination would have to take place.

77. Mrs. WARZAZI said that the comments made by Mrs. Chavez on the report produced by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1995/78/Add.1) seemed excessively critical and took insufficient account of the Special Rapporteur's relative inexperience in reporting in a very difficult area. The report contained much useful information and it was particularly pleasing that it took account of the wishes of the Assistant Secretary-General for Human Rights for regular and systematic updates on the human rights situation of women. The information received by the Special Rapporteur on his visit to the United States confirmed that women there suffered double discrimination on the grounds both of their sex and of their colour, religion or ethnic origin.

78. The assistance given by the United States authorities to the Special Rapporteur during his visit was much appreciated. However, it was disappointing that he had been prevented by a lack of funds from visiting the United Kingdom. Once again, the inadequacy of resources was proving a serious handicap to the Sub-Commission in its attempts to promote human rights.

79. The report showed that some progress was being made in the fight against racism and racial discrimination. During 1994 and 1995, a number of important initiatives had got under way at national and regional level. The European Commission against Racism and Intolerance seemed determined to fulfil the terms of its mandate including a possible revision of article 14 of the European Convention on Human Rights. In June 1995, the Parliamentary Assembly of the Council of Europe had asked its 35 member States to grant foreign residents the right to vote in local elections as a means of encouraging integration. Similarly, it had decided to amend its own internal rules to provide sanctions against parliamentarians who incited racial hatred. The European Parliament had also recognized the importance of giving migrants and ethnic minorities better access to the media.

80. As part of another major event organized by the Council of Europe in Strasbourg and involving 43 European countries, trains had carried thousands of young people all over Europe in order to draw public attention to the problem of racism. It was to be regretted that so laudable an initiative had been marred by a number of incidents, the root cause of which was nationalist bigotry.

81. Countries such as France, Germany and Austria had decided to adopt a tougher line in their attempts to combat the far right. That included measures to prevent music broadcasts of concerts which incited people to

racism and measures to restrict the dissemination of Nazi propaganda. Another very positive step had been the decision in Austria to make political education compulsory in all schools.

82. Important initiatives had also been undertaken by the United Nations Educational and Scientific Organization (UNESCO). The International Conference on Education, held in October 1994 in Geneva, had produced a declaration including a paragraph concerning all forms of racism. The Organization had also organized an international workshop on migrant workers, refugees and minorities in conjunction with the Marangopoulos Foundation in Greece and was involved in preparations for another similar workshop on migrants within the European Union.

83. It was thus clear from the report that Governments, organizations and other competent institutions were now mobilizing themselves against the upsurge in racism, xenophobia and intolerance. However, it was regrettable that one had to speak of an upsurge at all, an upsurge which was gathering momentum and jeopardized the victories which had been won by the international community over several decades. Even countries which enjoyed a reputation as safe and welcoming havens were in danger of being tainted. Racist attacks had proliferated, and in some cases the police had appeared to turn a blind eye or even showed sympathy with the culprits. The report also showed, most worryingly, that the military were often involved in racist violence and in some areas, racist aggression was tolerated or actively supported by the general public. Fortunately, the majority of people condemned such actions and Governments were becoming more aware of the seriousness of the situation. It was worth noting that the French Advisory Committee on Human Rights had denounced the spread of racism, of which Islam and the Arab minority had become the main targets.

84. Following his mission to the United States, the Special Rapporteur had made a number of recommendations. One of those recommendations was that affirmative action programmes should be reactivated as a way of countering the negative effects on minority groups of certain government policies. She was greatly concerned at newspaper reports in June 1995 according to which the Supreme Court had decided by 5 votes to 4 to revoke electoral demarcation favourable to black Americans. The same Court had recently ruled that scholarship programmes for black students were unconstitutional, and a court in Richmond, Virginia had ruled against a similar programme established by the State University of Maryland on the grounds that the University's less than exemplary record in the matter of racial equality was not in itself sufficient justification for a policy of discrimination against whites.

85. There was a danger now that other affirmative programmes for women and minorities might also come under threat. It was clear from the press that "positive discrimination" would be a major theme in the 1996 presidential campaign. It could not be said too often that the Convention on the Elimination of All Forms of Racial Discrimination, in article 2, paragraph 2, explicitly called on States parties to take "special and concrete measures" to help disadvantaged minorities achieve equality.

86. One particularly serious potential threat to the attempt being made to promote the integration of minority groups was the recently published sociological study entitled The Bell Curve, which appeared to provide grist to the mill of reactionary and racist elements. On the basis of an analysis of the relationship between intelligence, race and heredity, the authors of the study had concluded that the intelligence quotient (IQ) of black Americans was on average 15 points lower than that of whites and that their chances of entering the upper socio-economic strata were disproportionately low. The debate which the study had triggered was certain to cause grave anxieties in minority communities, given that the underlying purpose of the book was to attack affirmative action policies.

87. She had one specific recommendation to make to the Special Rapporteur. It was that he should undertake an analysis of the policies established by Governments to determine whether or not they were truly effective. He could then make appropriate recommendations to the Commission and other bodies such as the Committee on the Elimination of Racial Discrimination (CERD).

88. There could be no illusions about the extent to which intolerance and racism were now on the rise in many countries. Education, the elimination of poverty, the fight against exclusion and the use of the media to improve relations between different communities were long-term policies but were essential if racism were ever to be ended. It was also vitally important that Governments should act now to promulgate more robust legislation directed against far right groups and take measures to mobilize public opinion against right-wing extremism.

89. Mrs. CHAVEZ agreed that excessively harsh criticism of the Special Rapporteur would be unjustified and she would be consulting the Centre for Human Rights on ways of improving the organization of visits by special rapporteurs. Nevertheless, she felt obliged to correct two apparent misconceptions. Firstly, in the ruling concerning the University of Maryland which had been cited by Mrs. Warzazi, it was not the Supreme Court which had ruled that the University's policy was illegal but a circuit court of appeal. There had evidently been some confusion here with the case Adarand v. Peña, where the Supreme Court had ruled that action taken under a federal affirmative action programme designed to help businesses run by members of minority groups had always to be subjected to "strict scrutiny" to ensure constitutionality. Secondly, while certain claims had been made in one chapter of The Bell Curve concerning links between IQ and racial origin, even the authors had conceded that the statistical evidence presented in the book might be interpreted as justifying more vigorous affirmative action rather than the opposite.

90. Mr. GUISSÉ agreed with the overall tenor of the comments made by Mrs. Warzazi, and suggested that, in highlighting the high levels of violence suffered by black Americans at the hands of other black Americans, Mrs. Chavez had missed a fundamental point. The black community had for centuries suffered exclusion and deprivation. Given the circumstances in which black Americans had lived for so long, the high level of violence within their community was hardly surprising.

91. He noted that a number of non-governmental organizations had already drawn attention to the growth of racism in the country and the creation of conditions which were in danger of leading to a form of apartheid. In his view, the report deserved a more independent and objective reading.

92. Mrs. CHAVEZ said that it was precisely because there were still very real problems in race relations in the United States that a balanced and objective report had been needed. Had the Special Rapporteur taken the opportunity during his visit to arrange meetings with the many highly respected groups and organizations concerned with the prevention of discrimination, he would have obtained a more objective, although still critical, perspective. Unfortunately, the report as it stood contained a number of serious factual errors. Her concern in speaking out had been less to defend the record of the United States than to highlight the need for rigorous standards of research and impartiality in the production of United Nations official documents. The Sub-Commission could not afford to lay itself open to charges of incompetence and political bias.

93. Mr. JOINET said that it seemed to him, as a special rapporteur himself, that partiality and bias could also be found among Governments, administrations and other official authorities, as well as among non-governmental organizations.

PROTECTION OF MINORITIES (agenda item 17) (E/CN.4/Sub.2/1995/33 and Add.1-2, 34 and 40; E/CN.4/Sub.2/1995/NGO/13, 14 and 15)

FREEDOM OF MOVEMENT (agenda item 18):

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) POPULATION DISPLACEMENT (E/CN.4/Sub.2/1995/35); E/CN.4/Sub.2/1995/NGO/10 and 16)

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO RACISM, XENOPHOBIA, MINORITIES AND MIGRANT WORKERS (agenda item 20) (E/CN.4/Sub.2/1994/36 and Corr.1)

94. Mr. EIDE said that the Sub-Commission should look at the totality of the issues under agenda items 17, 18 and 20 in a coherent way in order to develop a comprehensive programme for the prevention of discrimination and protection of minorities, to be seen as two sides of the same coin. His working paper of the previous year (E/CN.4/Sub.2/1994/36) had put forward suggestions to that end. In connection with agenda item 20, there was to be a joint meeting the following day between members of the Sub-Commission and of the Committee on the Elimination of Racial Discrimination. The Committee had a very important monitoring role in its field and was much better placed to deal with racism and ethnic discrimination, so that the Sub-Commission could learn much from it. By the same token, the Sub-Commission was the only expert body that had the explicit dual mandate of prevention of discrimination and protection of minorities.

95. Among the possible topics on the agenda for the joint meeting (E/CN.4/Sub.2/1994/36) were the Committee's and the Sub-Commission's

contribution to the Third Decade to Combat Racism and Racial Discrimination; the preparations for the proposed world conference against racism; concrete proposals to combat racism and racial discrimination; and ways in which the two bodies could cooperate. The meeting was expected to address the issue of affirmative action and the application in that connection of article 1, paragraph 4, and article 2, paragraph 2, of the Convention on the Elimination of All Forms of Racial Discrimination; as well as the issue of xenophobia, under the general question of freedom of speech and association in relation to article 24 of the Convention. There were also specific proposals to discuss the importance of preventive functions requiring a continuous dialogue with States on the implementation of the principles set out in international instruments. There again, the Committee was better placed to be able to detect at an early stage dangerous developments that required attention.

96. Human rights and fundamental freedoms required the existence of a legal order that could ensure equality and reciprocal respect between all members of society. A functioning legal order could be ensured by the existence of States which constituted the framework for legal systems that in turn must be implemented in conformity with human rights. The State must be seen as legitimate by all members of society, which not only required equality in participation but also respect for minority groups; minorities, for their part, must respect the common legal order in society and the human rights of the majorities.

97. Among the developments taking on grave proportions at the moment - all of which must be taken into account in any comprehensive programme - were: population displacement; the right to return or to remain in place; the problem of the internally displaced; and the problem of rebuilding multicultural societies and protecting the minorities within them. A case in point was the horrifying exodus from Krajina of populations who certainly had the right to remain in place but were being driven out by fear and hatred.

98. Another problem was that of enclaved groups. At the Sub-Commission's request, he had drafted a working paper (E/CN.4/Sub.2/1995/34) in which he had analysed particular situations in order to arrive at a general definition. Studying enclaves of deported peoples in the former Soviet Union, or enclaves in Cyprus and especially in Bosnia and Herzegovina under the control of unrecognized de facto authorities, he had reached the definition given in paragraph 24 of that working paper, which he hoped the Sub-Commission would be able to discuss.

99. A comparative mechanism ought to be set up to monitor the protection of minorities. The Commission on Human Rights had authorized the establishment of a Sub-Commission Working Group with a three-fold mandate: to review the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in resolution 47/135 in 1992; to examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments; and to recommend further measures for the promotion and protection of minority rights. That Working Group would begin its work immediately after the current Sub-Commission session.

100. Since the Sub-Commission dealt with the totality of the problems of non-discrimination, racism, ethnic or religious conflict and xenophobia and their interrelation, it was in a position to give guidance to many other United Nations bodies, special rapporteurs and agencies dealing with separate aspects of that totality, and also to States struggling with those problems. The Sub-Commission should encourage States to establish recourse procedures for victims of racial or ethnic discrimination, something which many had done. When conflicts flared up dramatically, it had increasingly become the practice to appoint thematic or country rapporteurs. The Sub-Commission should scrutinize the reports of those special rapporteurs as they bore on its own mandate, and should suggest to them how they could approach various aspects of a particular mandate.

101. Many problems stemmed not from Governments but from other elements in society, such as ethnic groups, religious groups, or sections of security forces pursuing their own violent agenda beyond the control of a Government.

102. The High Commissioner for Human Rights could undoubtedly play a major preventive role by implementing the Conventions and Declaration on the Rights of Minorities and by conducting dialogue with Governments in specific cases. Much could be learned from the example of the experience gained by the Conference on Security and Cooperation in Europe (CSCE).

103. In cases of open conflict, it was necessary to insist on the minimum humanitarian standards contained in humanitarian law and human rights law, and it was important that the various non-governmental entities involved in conflicts and United Nations peace-keeping forces, as well as government forces, be held to those minimum standards. To the world's horror, even those minimum standards had been disregarded to some degree or other by all the parties to the conflict in the former Yugoslavia. It was hoped that enough evidence of such violations would be gathered by the International Tribunal to allow the prosecution of the persons responsible. Based on the experiences of the international tribunals dealing with the former Yugoslavia and Rwanda, efforts would be needed to abolish impunity and ensure that those responsible for crimes were brought to trial. In the peace-building process following conflicts, efforts would be needed to create a human rights infrastructure, and lessons could be drawn in that area from the actions of the United Nations in Cambodia, El Salvador and elsewhere with a view to drawing up guidelines for similar actions in the future.

104. There was a clear need to strengthen the Centre for Human Rights to enable it to provide adequate services both in terms of research and evaluation and in the resources made available for action. It was essential that the Centre, together with the High Commissioner for Human Rights, be organized in such a way that the interaction between the prevention of discrimination and the protection of minorities was properly understood to allow appropriate action to be taken. The Sub-Commission, as the main body with a mandate to integrate those two areas, needed to elaborate a coherent programme. He hoped that the present discussion and the planned joint discussion with the Committee on the Elimination of Racial Discrimination (CERD) would be a step in the right direction.

ORGANIZATION OF WORK (continued)

105. Mr. KHALIFA recalled that discussion of agenda item 6 had been formally closed and wondered what arrangements would be made to allow discussion of the working paper on the question of human rights and terrorism (E/CN.4/Sub.2/1995/9) when it eventually appeared. The subject was a very important one and needed to be discussed by the Sub-Commission, possibly with the imposition of limits on speaking time and the closure of the list of speakers before the discussion started.

106. The CHAIRMAN said that Mr. Ramadhane, who was responsible for preparing the working paper, had not yet been able to submit it.

107. He said that, if the members of the Sub-Commission so wished, it would still be possible to revert to the question of human rights and terrorism at a later meeting, even though item 6 had been closed.

108. It was so decided.

The meeting rose at 1 p.m.